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RATIONALIZATION OF THE WORK OF THE COMMISSION

Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights

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Introduction

1. The Working Group met for a total of 15 days (28 September - 1 October 1999, 6-10 December 1999, 18-19 January 2000, 7-11 February 2000). The purpose of the Group, as made clear in its title, was to enhance the effectiveness of the mechanisms of the Commission on Human Rights. The basis for its work was the statement by the Chairperson of the fifty-fifth session of the Commission approved by consensus by the Commission on 29 April 1999. The present report to the Commission was adopted by the Working Group on the basis of consensus, in accordance with the approach outlined in the Chairperson's statement.

2. The Working Group had before it the report of the Bureau of the fifty-fourth session of the Commission (E/CN.4/1999/104) and a range of other inputs. The documents tabled during the Working Group meetings are listed in the annex.

3. The Working Group expresses its appreciation to the representative of the Sub-Commission on the Promotion and Protection of Human Rights and to the representatives of the special rapporteurs, special representatives and independent experts for their participation in the relevant parts of the discussion.

CHAPTER ONE

General approach

4. The Working Group wishes to outline some features which characterized its deliberations.

(i) **A coherent approach**. In keeping with its mandate, the Working Group sought to proceed in a manner which was focused and result-oriented, while at the same time maintaining the necessary coherence and comprehensiveness. It gave particular attention to the specific areas identified in the Chairperson's statement of 29 April and this report contains a series of recommendations in these areas. The Working Group, however, was conscious throughout that the United Nations machinery for protecting and promoting human rights is extensive and complex and that none of the component parts functions in isolation from each other. It therefore situates its report in this wider context.

(ii) **Conceptual consistency**. The Group also sought to ensure that its recommendations to the Commission would be underpinned with a conceptual consistency.

- In addition to recommendations on specific mandates, it proposes some general criteria which would help to guide decision-making on the rationalization of current and the establishment of future mandates.

- In a variety of instances (elections to the Sub-Commission; continuance both of special procedures working groups and Sub-Commission working groups rather than replacement by special rapporteurs), it has favoured the maintenance of approaches which were felt to be more democratic and representative than the proposed alternatives.

- It also has sought to adopt a consistent approach in seeking to balance the benefits of **continuity** with the benefits of **renewal:** following the decision of the Commission at its fifty-fifth session to introduce time limits for Special Rapporteurs, the Working Group recommends time limits for membership of special procedures working groups.

(iii) **Balance**. The balance to be struck between civil and political rights and economic, social and cultural rights was a recurring theme in the Group's work. The Group was agreed that, while a mathematical approach was inappropriate, it was reasonable to expect that the accepted equal importance of both sets of rights should find a broad reflection in the United Nations human rights machinery. This underlying consideration conditions a number of the comments and recommendations made in the report.

The Commission's network of special procedures

5. The Group agreed that the network of thematic special procedures is in need of rationalization and strengthening and that this requires a multi-pronged approach. Its recommendations on rationalization are contained in paragraphs 12 to 22 below. Other issues of relevance considered by the Group include selection of the mandate holders, quality of support to the mandates from the Office of the High Commissioner for Human Rights and coherence in the work of the Rapporteurs. Its **recommendations** in these areas are set out in the following paragraphs.

Selection of mandate holders

6. To assist in the selection of the most suitable individuals to hold mandates, a list of possible candidates should be maintained by the Office of the High Commissioner for Human Rights. The list should comprise the names and curricula vitae of highly qualified individuals who would be suitable and willing to serve as rapporteurs in particular areas. The list should be constantly updated and every effort made to ensure that it is representative of different geographical areas and different legal systems, as well as having a gender balance. To ensure as extensive a list as possible, contributions should be encouraged from States and from all appropriate sources including non-governmental organizations in consultative status with the Economic and Social Council; the Secretariat is also encouraged to contribute names of suitable persons. The list should be posted on the Web site of the Office of the High Commissioner for Human Rights (OHCHR), as well as being available at the Office.

7. Selection of mandate holders will continue to be the responsibility of the Chairperson following formal consultation with the Bureau and the regional groups through the regional coordinators. In appointing mandate holders, the professional and personal qualities of the individual - expertise and experience in the area of the mandate, integrity, independence and impartiality - will be of paramount importance. Due regard should also be had to an overall geographical and gender balance among the mandate holders, as well as to ensuring familiarity with different legal systems. The Chairpersons would give priority consideration to suitable names on the list; however, this should not exclude - exceptionally, if the requirements of a

particular post justify it - consideration of additional nominations put forward for a specific vacancy. An individual should not hold more than one mandate at a given time.

Support to mandate holders

8. It is acknowledged that the level of support available to the mechanisms is not commensurate with their activities and the importance of their responsibilities. The Working Group considers the financial situation of OHCHR needs to be significantly improved through increased contributions from the United Nations regular budget, so as to ensure collective responsibility and an adequate allocation of resources to all mandates. In this respect, it reaffirms that the procedure set out in General Assembly resolution 41/213 regarding the financing of mandated activities and programmes should be applied. The Working Group notes that improved provision from the regular budget can be importantly supplemented by increased voluntary funding.

9. The Group also underlines the importance of a balanced allocation of resources at OHCHR, consistent with the High Commissioner's emphasis on the equal priority to be accorded to civil and political rights and economic, social and cultural rights. It notes the High Commissioner's call for voluntary contributions to be unearmarked as far as possible so as to offer improved flexibility in resource allocation within the Office. It welcomes and encourages regular briefings by the Office on resource availability and allocation.

Coherence in the work of rapporteurs

10. The Working Group underlines the independence and individual responsibility of each mandate holder. However, some organizaitonal aspects of their work will continue to benefit from collective consideration at the annual meeting of special rapporteurs and other special procedures. The Group encourages the mandate holders to develop fully the potential of this forum.

11. The Working Group notes the work currently under way in the General Assembly concerning a possible code of conduct for experts on mission and United Nations officials other than Secretariat staff. The Group encourages the special rapporteurs to continue to follow this exercise closely and requests that they report, through the Chairperson of their annual meeting, to the Commission at its fifty-seventh session.

Rationalization of mandates: general critera

12. The Working Group was conscious of the competing considerations involved in approaching the question of rationalization of mandates. The Commission clearly must be responsive to human rights imperatives; where human rights violations exist, mechanisms focus attention and have the potential to bring about important improvement. At the same time, the increasing number of mandates can create difficulties in terms of overlap and inadequate support services, as well as straining the capacity of States to absorb the output.

13. The Working Group considered that certain general criteria should guide decision-making on rationalization of mandates. It sees these general criteria as providing useful

points of reference rather than being applied with automaticity; the criteria also need to be considered in relation to one another rather than in isolation. It **recommends** that the criteria to apply at times of creating, merging or terminating mandates would include:

(i) Mandates should always offer a clear prospect of an increased level of human rights protection and promotion;

(ii) The balance of thematic mandates should broadly reflect the accepted equal importance of civil and political rights and economic, social and cultural rights;

(iii) Every effort should be made to avoid unnecessary duplication;

(iv) In creating or reviewing mandates, efforts should be made to identify whether the structure of the mechanism (expert, rapporteur or working group) is the most effective in terms of increasing human rights protection;

(v) Any consideration of merging mandates should have regard to the content and predominant functions of each mandate, as well as to the workload of individual mandate holders.

The Group is agreed that an objective and thorough review of all mandates should be conducted periodically by the Commission. A key question in the review should be the continued need for a mandate in terms of continued human rights violations in the thematic area concerned or continued situations of human rights violations in the country concerned.

Rationalization of existing mandates

Recommendations on specific proposals in the report of the Bureau of the fifty-fourth session of the Commission

(i) Merge the mandate of the independent expert on structural adjustment and the Special Rapporteur on foreign debt ;

14. The Working Group noted the fact that the independent expert on structural adjustment and the Special Rapporteur on foreign debt had worked very closely together and had submitted a joint report to the Commission at its fifty-sixth session. The synergies between the mandates are considerable and there are good grounds to believe that a merger would strengthen the coverage of the range of issues involved. Accordingly, and taking account of the resignation of the Special Rapporteur on foreign debt, the Working Group **recommends** that the independent expert be given both mandates and retitled the independent expert on structural adjustment and foreign debt.

(ii) Convert the mandate of the Special Rapporteur on the adverse effects of the illicit movement of toxic waste into that of special rapporteur on human rights and the environment;

15. The Working Group noted the proposal to convert the mandate of the Special Rapporteur on toxic waste into that of Special Rapporteur on human rights and the environment. This mandate was created in 1995, renewed in 1998 and is due for further renewal in 2001. The

Working Group **recommends** that the Commission be prepared to consider a broadening of the mandate at that time. The subject matter of an extended mandate would, however, need to be more precisely defined than "human rights and the environment".

(iii) Transform the Working Group on Arbitrary Detention into a special rapporteur on arbitrary detention;

Transform the Working Group on Enforced and Involuntary Disappearances into a special rapporteur on disappearances;

16. The Working Group considers that there is benefit in having these issues dealt with by working groups (each comprising five experts from different regions) rather than by individual rapporteurs. It therefore **recommends** that the Working Groups continue.

17. The Group is conscious of the expertise, dedication and worthwhile contribution made by the members of the two groups. It considers, however, that turnover in membership of these groups is important for ensuring renewal and enabling over time a wide variety of experts to make their contributions.

18. It notes that the Working Group on Enforced and Involuntary Disappearances was created in 1980. Three of the five members have served continuously since that date, the two others joining in 1988 and 1993 respectively. The Working Group on Arbitrary Detention was created in 1991 and all five members have served since that date.

19. The Working Group **recommends** that the same time limits - two terms of three years - should apply for membership of special procedures working groups as for rapporteurs.

20. It recognizes that in order to provide continuity transitional measures will be necessary in the case of the two working groups. It **recommends** that the turnover in both groups should be accomplished in incremental steps over a three-year transition period. A replacement of two members in year one, two in year two and one in year three would provide for continuity during the transitional period.

(iv) Terminate the mandate of the Special Rapporteur on the use of mercenaries and recommend that this matter henceforth be considered directly in the General Assembly (Sixth Committee).

21. The Group is not in a position to make a recommendation on this issue. It notes that the mandate is due for renewal in 2001 and recommends that all options - continuation, adjustment, termination - be further examined to enable a considered decision to be taken at that time.

(v) Terminate the mandate of the Sub-Commission's Working Group on Contemporary Forms of Slavery and transfer those responsibilities which are not addressed by existing mechanisms to a new special rapporteur on contemporary forms of slavery.

22. The Group **recommends** the retention of this Working Group; however, it also recommends that steps be taken immediately to make the Working Group more focused and

more effective. The agenda should be streamlined to remove duplication with items dealt with by rapporteurs. Taking account of a more focused agenda, meetings of the Working Group should be reduced to five days from the present eight days. Steps should also be taken to encourage wider attendance and wider circulation of reports.

CHAPTER TWO

How to support the mechanisms in responding urgently and effectively when allegations or concerns of serious human rights violations, requiring immediate clarification and/or relief measures, are brought to their attention

How to make consideration of reports of the special mechanisms at the Commission sessions more meaningful

How to ensure that, between annual sessions of the Commission, there is effective ongoing follow-up on the recommendations of special procedures and related conclusions of the Commission at its previous session

23. The Working Group decided, because of the relationship between the above three issues, to convey its recommendations in a single chapter.

24. The Working Group is agreed that the special mechanisms are crucial to the functioning of the Commission on Human Rights. It is therefore essential that they are properly supported, that they work effectively and that appropriate weight is given to their recommendations.

25. The Working Group noted that a majority of Governments extend cooperation to the mechanisms in all activities necessary to the fulfilment of their mandates. Refusal of cooperation occurs only in a minority of cases. These refusals, however, must be a cause of serious concern. In such cases, steps to encourage a more cooperative response are critically important and should be carefully considered by the Commission. A clear statement by the Government concerned of its reasons for lack of cooperation will facilitate efforts to overcome the problem.

Urgent responses

26. The Working Group considers that the human rights machinery of the United Nations is particularly tested at a time when there are allegations of an urgent situation of serious human rights violations requiring immediate attention in any part of the world. It notes that a special session of the Commission on Human Rights, convened in accordance with the relevant rules of procedure, is one possible response. Separate from intergovernmental responses, one or more of the thematic or country-specific rapporteurs concerned may request an immediate visit. Such requests, precisely because they arise in such difficult circumstances, should always be approached with great seriousness by the rapporteurs and equally treated with great seriousness by the Governments concerned.

27. A very large number of urgent appeals is issued each year by thematic and country-specific rapporteurs. The purpose of these appeals is to strengthen human rights

protection in situations giving rise to immediate concern. The Working Group underlines that the quality and credibility of the urgent appeal process is crucial to its effectiveness and notes the steps planned by OHCHR in this regard. It emphasizes that Rapporteurs should coordinate closely with the Office to ensure that (i) facts providing the basis for the urgent appeal are clearly set out (ii) there is exchange of information to ensure that rapporteurs do not issue parallel appeals without full knowledge of any other appeal being made to the Government concerned.

28. For their part, Governments to which urgent appeals are addressed should understand the gravity of the concern that underlies these appeals and should respond as quickly as possible. The Working Group **recommends** that the special procedures should be supported in instances where difficulty is being experienced in securing governmental responses to urgent appeals. It encourages the High Commissioner for Human Rights to continue in these instances to assist in seeking to promote the establishment of fruitful dialogue and cooperation between the Government and the special procedure concerned.

How to make consideration of reports of the special mechanisms at the Commission sessions more meaningful

29. The Working Group considers that the level of attention which the reports of the special mechanisms currently receive at Commission sessions is inadequate. The steps decided on at the fifty-fifth session of the Commission in relation to documentation (including executive summaries of reports and advance availability of unedited reports) should help delegations to better prepare for the discussion at Commission sessions.

30. The Working Group considers that some further steps can help to improve the quality of dialogue on the rapporteurs' reports at the Commission sessions. A more meaningful discussion is likely if Governments which have received visits from rapporteurs are in a position to comment in detail on the reports and if the debate at the Commission has a more interactive character than at present. It therefore **recommends** as follows:

(i) There should be a consistent practice among country-specific rapporteurs and thematic rapporteurs who are including country-specific sections in their report, of making the texts of their reports available to the representatives of countries visited sufficiently in advance to allow a reasonable opportunity for comment. Comments by the Governments concerned should be made available as an official document, either as an annex to the report or, if this is not feasible for practical reasons, as a separate document to be circulated at the same time as the report.

The definition of a "reasonable opportunity" to comment needs to be approached in a spirit of mutual understanding. Rapporteurs should understand that preparation of comments by Governments can often require inter-departmental consultation and therefore be time consuming. Governments for their part should understand that rapporteurs are often working to tight deadlines with limited support. A "reasonable opportunity" should normally be interpreted as a minimum of six weeks (with reports being made available, in unedited form if necessary, if possible in the relevant official language) , if such an interval has not been possible, there should be a good reason, which the rapporteur should explain at the Commission.

(ii) The Working Group considers that there would be important benefits in having more interactive debate on the reports of rapporteurs. It recommends that time be made available for such debate in the course of the Commission session, immediately following presentation of the report by the mandate holder.

Discussion of follow-up of current and past recommendations and consideration of situations involving failure or denial by Governments

31. The Working Group agrees that cooperation between the Governments and the rapporteurs should be seen as a process; for the rapporteurs and for the Commission itself, knowledge about the extent of follow-up of earlier recommendations is essential to considering how the process is to be developed. The Working Group discussed how a clearer picture might emerge in this regard.

32. The Working Group considers that steps agreed at the fifty-fifth session of the Commission and recommendations contained elsewhere in the present report would lead to a stronger sense of where progress has been made and where problems persist. The executive summaries of reports should help to focus discussion. Rapporteurs should structure their executive summaries so that salient points are identified; comments (positive or negative) on follow-up and comments about the degree of cooperation by Governments are likely to be among the issues to which attention is directed. If there is standard formatting of executive summaries, a section on follow-up is likely to become part of the standard format. In addition, with more systematic and interactive dialogue at Commission sessions, consideration of follow-up or failures will inevitably receive attention as part of that dialogue.

How to ensure that, between annual sessions of the Commission, there is effective ongoing attention to the recommendations of the special procedures and related conclusions of the Commission at its previous session

33. The cycle of meetings (the Commission session in spring; the United Nations General Assembly in autumn) is such that the Third Committee of the General Assembly is well placed to consider developments in the interim since the Commission session. Given the significant overlap both in agenda and in attendance between the Commission and the Third Committee, the Working Group considers that there is scope for a more dynamic sense of connection between the two. In particular, the Group recognizes the rationale for some form of enhanced preparation in Geneva so as to ensure that all delegations have relevant information available to them in their preparations for the Third Committee.

34. The Working Group therefore **recommends** that the Chairperson of the Commission should convene a one-day informal meeting of the Commission in late September each year specifically to facilitate exchange of information in advance of the General Assembly. The meeting, which would not have a formal outcome, would have an agenda comprising those issues which had been dealt with at the previous Commission session and which were also on the provisional agenda for the Third Committee. Each item would be focused on briefly, with information from the Secretariat on any developments since the Commission session, and an opportunity for comment by government representatives, including any indication of intentions for tabling resolutions in the Third Committee.

CHAPTER THREE

1503 procedure

35. The Working Group is convinced of the value of the 1503 procedure as a channel for individuals and groups to bring their concerns about alleged human rights violations directly to attention. It considers that the objectivity, impartiality and confidentiality of the process must be maintained in any reform. It believes, however, that the system can be made considerably more efficient without sacrifice of these essential characteristics. It submits recommendations both on the phase preceding the Commission deliberations and the deliberations at the Commission itself.

Phase preceding Commission deliberations

36. The Working Group **recommends** that the present three stages preceding the Commission deliberations should become two stages. It believes that this would continue to provide the careful filtering necessary, but would reduce the overly long delays in the present process. The two stages would comprise (i) the Working Group on Communications and (ii) the Working Group on Situations.

37. The **Working Group on Communications** (WGC) would comprise five independent experts, members of the Sub-Commission on the Protection and Promotion of Human Rights, geographically representative of the five regional groups. All members of the Sub-Commission would be eligible for membership, with an appropriate rotation of membership encouraged.

38. The WGC would meet annually immediately following the Sub-Commission, examine the communication received and any government responses, and prepare its report, including recommendations as to which situations should be referred to the Working Group on Situations.

39. To assist the efficiency of the process, the secretariat would screen out manifestly unfounded communications with the approval of the WGC Chair; monthly confidential summaries would be sent to all WGC members through secure means.

40. The **Working Group on Situations** (WGS) would comprise, as at present, five members nominated by the regional groups, with due attention being paid to rotation in membership. The WGS would meet at least one month prior to the Commission, so as to enable the secretariat to make confidential papers available at least one week in advance of the session. The Working Group on Situations would examine the report of the Working Group on Communications, determine whether or not to refer a situation before it to the Commission, and prepare a report identifying the main issues of concern. In referring a situation to the Commission, the WGS should normally present a draft resolution or decision on the situation.

Proceedings at the Commission

41. The Working Group considers that the consideration of 1503 situations at the Commission should be made more meaningful. It **recommends** two closed sessions to consider the recommendations of the Working Group on Situations.

At the first session, each country concerned would be invited to make opening presentations. A discussion would then follow between members of the Commission and the country concerned, based on the contents of confidential files and the report of the WGS.

In the interim between the first and second sessions, any member or members of the Commission could submit an alternative or an amendment to any texts forwarded by the WGS. Any such draft texts would be circulated confidentially by the Secretariat in accordance with the rules of procedure in advance of the second meeting.

At the second session, members of the Commission would discuss and take action on the draft resolutions or decisions. The Chairperson of the Commission would subsequently announce in public session which countries had been examined under the 1503 procedure, as well as the names of countries no longer being dealt with under the procedure. The 1503 dossiers would remain confidential, except where the Government concerned had indicated a wish that they become public.

CHAPTER FOUR

Sub-Commission on the Promotion and Protection of Human Rights

42. The Working Group recognizes that the Sub-Commission has made an extremely valuable contribution to the human rights work of the United Nations over the past 53 years. As a body of independent experts, its analysis and perspectives add an important dimension to the work of the Commission. The Working Group considers, however, that there is need for clarification and adjustment of the mandate of the Sub-Commission.

43. The concern to safeguard the independence of the Sub-Commission was a predominant theme in the discussions of the Working Group . The Group emphasizes that the independence of the membership is a defining characteristic of the Sub-Commission; to the extent that there is any perception that its independence is eroded, the credibility of the Sub-Commission and hence the influence that it can bring to bear on human rights issues is weakened.

Membership issues

(i) Election of members

44. The Working Group **recommends** that the Sub-Commission members continue to be elected according to the procedures currently in place. It considers that election of the membership is more transparent and democratic than appointment.

(ii) Safeguarding independence

45. Because of the complexities of the issue, the Working Group stops short of defining the categories of employment which would exclude candidates from eligibility for election to membership of the Sub-Commission. However, it emphasizes that persons putting their candidacies forward for membership, and Governments in electing the membership, should be conscious of the strong concern to ensure that the body is independent and is seen to be so.

46. Members of the Sub-Commission should maintain the highest integrity and impartiality and avoid acts which would affect confidence in their independence.

(iii) Duration of membership

47. In paragraph 4 above, the Working Group emphasizes the need for a balanced accommodation of the benefits of continuity and the importance of renewal. As with the principle of independence discussed above, the Working Group emphasizes that this should be borne in mind by persons putting their candidacies forward for membership and by Governments in electing the membership.

(iv) Size of membership

48. The Working Group considered the question of the optimum size of the Sub-Commission. To ensure effectiveness, numbers should be kept to the minimum necessary. However, the Sub-Commission should have sufficient numbers to ensure it is both geographically representative and representative of different legal systems; there must also be a sufficient pool of experts to staff the working groups of the Sub-Commission. Having weighed the various considerations, the Working Group recommends that the Sub-Commission remain at its present size of 26 members.

Mandate

(i) Oversight by the Commission

49. The Working Group considered that the role of the Commission in its oversight and determination of priorities of the Sub-Commission should be strengthened. In assigning projects, the Commission should ensure that it gives clear direction to the Sub-Commission, taking care to avoid duplication with work being carried out by other competent bodies and mechanisms. The Commission, at its fifty-sixth session, should undertake an initial review of the tasks currently being performed by the Sub-Commission; thorough reviews should subsequently be carried out by the Commission periodically.

50. The principal attention of the Sub-Commission should be given to the elaboration of studies and research and to providing expert advice at the request of the Commission. The Commission, in considering the assignment of work, should take into account relevant proposals from the Sub-Commission. The Sub-Commission should retain some right of initiative in carrying out research and studies. However, such work at its own initiative should comprise a modest percentage of the Sub-Commission's work and should also take full account of the need to avoid duplication with work being undertaken by other competent bodies.

(ii) Country situations/thematic resolutions with a country focus

51. The Working Group also discussed the question of consideration of country situations by the Sub-Commission. It is conscious that resolutions on country situations risk duplication with the work of the Commission and creating a perception of politicization of independent experts. At the same time, it accepts that there could be a loss in human rights terms if the Sub-Commission were unable to give any consideration to specific country situations.

52. The Working Group therefore **recommends** that the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission. It should also be allowed to discuss urgent matters involving serious violations of human rights in any country. However, the Sub-Commission should not adopt country-specific resolutions; its discussions would be reflected in the summary records of the debate, which should continue to be forwarded to the Commission.

53. The Working Group is conscious of the important range of issues which have been the subject of thematic resolutions adopted by the Sub-Commission. However, consistent with the independent expert character of the Sub-Commission as a think-tank, the Working Group recommends that it refrain from negotiating and adopting thematic resolutions which contain references to specific countries.

(iii) Standard setting

54. The Working Group envisages a potential role for the Sub-Commission in standard setting, as set out in paragraph 58 below.

(iv) 1503 procedure

55. As is clear from the recommendations in Chapter Three of this report, the Working Group recommends that the Sub-Commission as a whole cease to have a role in the 1503 procedure.

Duration of annual session

56. Taking account inter alia of the changes in the mandate of the Sub-Commission, the Working Group **recommends** that the annual session of the Sub-Commission should be of three weeks' duration.

CHAPTER FIVE

Standard setting

57. The Working Group considers that standard-setting will continue to be one of the central functions of the Commission on Human Rights. It **recommends** that the sequence of steps involved in formulating and adopting new standards should be as follows.

(i) Advance preparation

58. Before referring any matter to a working group the Commission should, where the necessary groundwork has not otherwise been undertaken, consider requesting the Sub-Commission to undertake a study on the question at hand and to prepare a draft text which should include a comprehensive analysis, with substantive comments, of the instrument envisaged. Among the issues to be addressed in any such study, and in the Commission's deliberations on whether to proceed, careful consideration should be given to the purposes of any drafting exercise and to the guidelines set out in General Assembly resolution 41/120.

(ii) Conduct of working groups

59. With the authorization of the working group concerned, all chairpersons should have standing authority to have informal contacts and consultations between meetings with a view to advancing progress in respect of the working group's mandate. If the working group considers it appropriate, and in consultation with OHCHR, chairpersons should be provided with the necessary financial resources to undertake these tasks. Chairpersons receiving such assistance should strive to conduct the informal consultations in the most cost-effective manner. Delegations should be kept informed of the progress of these consultations, including a briefing at the start of each session of the working group.

(iii) Time limits for standard setting

60. In creating any standard-setting working group, the Commission should consider a specific time-frame within which the group would be called upon to complete its task. This could vary, depending on the complexity of the issue and the nature of the instrument. However, in most instances, the established time-frame should not in principle exceed five years. If, by the end of this time-frame, the working group has not been able to achieve the desired result, the Commission should consider the following options:

Extending the mandate;

Providing for a period of reflection (such as one or two years), during this period, chairpersons should continue to consult widely and where possible provide the Commission with papers on an envisaged outcome;

Examining the working methods of the particular working group (taking into account the format of the report, annexes to the report, chairperson's perception paper, etc.).

CHAPTER SIX

Working methods of the Commission

61. Comments and recommendations in earlier sections of this report have related to various aspects of the working methods of the Commission. The Working Group acknowledges the role of the Bureau in considering organizational and administrative aspects of the Commission's work, particularly the question of time management at annual sessions. It encourages the Bureau to continue to explore proposals for improvement in these areas, to be brought before the Commission for approval as appropriate.

62. The Working Group **recommends** that the question of agenda reform should be kept under review. A new agenda was in place for the fifty-fifth session of the Commission; the Working Group considers that a review of the experience with the new agenda - including the scope for possible further reclustering of items - would be timely at the latest after the fifty-seventh session.

63. The Working Group considered the questions of documentation at the annual session and the methodology for holding consultations on resolutions. In both of these areas, the Working

Group is conscious of a certain tension. If the work of the session is to be serious, well-prepared, and provide all delegations with an opportunity for full participation, documentation needs to be available well in advance and its bulk should not overwhelm the absorption capacity of delegations. Equally, to ensure the most relevant and meaningful outcomes, the process of advance consultation on resolutions should offer scope for involvement by all interested delegations. On the other hand, the Working Group wishes to avoid any straitjacketing of procedures which might result in urgent situations of serious human rights abuse not receiving the attention they warrant at the Commission. It also acknowledges that any recommendation for changes in the approach to consultations must take realistic account of the pressures of working within the time constraints of the annual session.

Documentation

64. On documentation, the Working Group underlines the importance of compliance with the six-week rule for the availability of reports and to General Assembly resolution 53/208, which specifies the length of reports. In any situation where there has not been compliance with these provisions, there should be good reason, which should be explained to the Commission. The Working Group also refers to paragraph 30 above concerning the inclusion of government comments in country-specific reports by rapporteurs.

Consultations on resolutions

65. The Working Group is conscious that, while resolutions are a key outcome of Commission sessions, a disciplined approach is required if each text is to receive the attention it deserves in terms of preparation and follow-up. This discipline is required in relation both to numbers and length of resolutions. As to numbers, the Working Group **recommends** that biennialization be considered of as many thematic resolutions as possible. All resolutions should be kept under periodic review, with a view to termination of a resolution if the circumstances giving rise to it no longer apply. As to length, the Working Group notes that if texts are to be accessible and meaningful, they need to be drafted as clearly and succinctly as possible.

66. The Working Group also **recommends** that every effort be made to give as much advance notice as possible of the tabling of resolutions. As a matter of general practice, (i) an indication of thematic resolutions to be tabled should be made available in advance of the Commission and (ii) in the case of draft resolutions on the human rights situation in specific countries, the delegations concerned should be informed no later than the first week of the session. It is understood that, where resolutions are being tabled principally in response to developments which have arisen in the course of the session, such advance notice will not be feasible. However, in these situations, delegations initiating texts should still give as much advance notice as possible and should explain, in introducing the texts at the Commission, the particular circumstances which led to the tabling of texts on short notice.

67. As regards informal consultations on texts, the Working Group **recommends** that increased efforts be made to avoid parallel consultations on different texts. The secretariat should be informed of scheduled consultations; delegations planning to convene consultations

should check the secretariat list and make the most committed efforts to avoid overlap. Announcements of consultations should be made in plenary, making clear whether they are intended for potential co-sponsors or are open to all.

Annual theme

68. The Working Group favours the continuation of the recent practice of choosing a particular theme for one day of special dialogue at the session. It **recommends** that the theme be chosen in Bureau discussions by the Chairperson, in consultation with all the regional groups; the choice should take into account the annual theme decided on by the General Assembly for its activities.

Office of the High Commissioner for Human Rights

69. A number of the recommendations in this report refer directly to or have implications for the Office of the High Commissioner for Human Rights. Attention is specifically drawn to paragraph 8 above relating to the provision of support to mandate holders. The Working Group is conscious that the effectiveness of OHCHR is a crucial element in the overall effort to enhance the effectiveness of the Commission and its mechanisms. It recognizes that, in turn, the effectiveness of the Office depends on the availability of adequate resources, human and financial, and the optimum use of these resources.

70. The Working Group, recognizing that dramatic increases in tasks facing the Office over recent years have not been accompanied by a proportionate increase in resources, repeats the need for significant improvement in this regard. It also considers it important that the distribution of available resources within the Office should be balanced, that best United Nations practice should be followed in the recruitment of staff, and that the professionalism and impartiality of the staff should be of the highest standard if the Office is to achieve its full potential in strengthening human rights protection worldwide.

Consideration of this report by the Commission

71. The Working Group recommends that this report be considered at the earliest appropriate time at the fifty-sixth session of the Commission and, if acceptable, approved in its entirety through a single decision.

Annex

DOCUMENTS AVAILABLE OR TABLED DURING THE THREE SESSIONS OF THE WORKING GROUP ON ENHANCING THE EFFECTIVENESS OF THE MECHANISMS OF THE COMMISSION ON HUMAN RIGHTS

First session, 28 September-1 October 1999

Rationalization of the work of the Commission

E/CN.4/1999/104 and Corr.1

E/CN.4/1999/WG.19/2 (former E/CN.4/1999/120)

E/CN.4/1999/WG.19/3 (former E/CN.4/1999/124)

Special procedures

E/CN.4/2000/5. Report of the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme (Geneva, 31 May-3 June 1999)

(No symbol) Report on capacity-building to strengthen the special procedures system of the United Nations human rights programme, prepared by Ms. Mona Rishmawi and Mr. Thomas Hammarberg

Sub-Commission on the Promotion and Protection of Human Rights

E/CN.4/Sub.2/1998/38. Enhancing the effectiveness of the Sub-Commission

E/CN.4/Sub.2/1999/47. Common position of the Sub-Commission on future tasks, length of session, working methods, composition and election of members

E/CN.4/Sub.2/1999/SR.22, para. 44. Summary record of the statement made by Mr. Marc Bossuyt concerning the methods of work of the Sub-Commission

1503 procedure

Annex 1 to document E/CN.4/Sub.2/1999/47. Summary of informal discussion by the Working Group on Communications on the recommendation concerning the 1503 procedure contained in the report of the Bureau of the fifty-fourth session of the Commission on Human Rights

Background note on the 1503 procedure prepared by the secretariat

Note for the file prepared by the secretariat on the "interpretation to be given to paragraph 10 of Economic and Social Council resolution 1503 (XLVIII)"

Relevant resolutions

General Asembly

Resolution 53/208, "Pattern of conferences" (concerning documentation and simultaneous distribution)

A/54/6. Proposed programme budget for the biennium 2000-2001, section 22, Human rights

Resolution 41/213, "Review of the efficiency of the administrative and financial functioning of the United Nations"

Aide-mémoire of the Chair dated 4 November 1999

Second session, 6-10 December 1999

Three "non papers" dealing respectively with the 1503 procedure, the Sub-Commission and standard-setting had been distributed during the open-ended consultations of 25 November 1999 by the delegations of Brazil, Canada, Chile, Japan, Finland, Latvia, New Zealand, Norway, South Africa, Spain, the United Kingdom and the United States.

A number of papers were submitted by the Like-Minded Group (LMG) before and during the session:

Proposals by the LMG on enhancing the mechanisms, 26 November 1999,

Proposals by the LMG on methods of work of CHR, 6 December 1999;

Proposal by the LMG on the rationalization and strengthening of the Commission network of thematic procedures, 7 December 1999.

The delegation of Cuba submitted a proposal at the outset of the session on new composition of the Commission. The delegation of Malaysia circulated preliminary comments on the issue of cooperation, to be read in conjunction with the LMG paper of 26 November 1999.

Aide-mémoire of the Chair dated 7 January 2000

Third session, 7-11 February 2000

Draft report of the Chair dated 24 January 2000 and in-session amendments

Revised draft report dated 10 February 2000

Two letters, dated 2 and 10 February 2000, from the Permanent Representative of Malaysia

Letter, dated 4 February 2000, from the Chairperson of the Commission on Human Rights addressed to the Permanent Representative of Malaysia

Letter, dated 10 February 2000, from Mr. Asbjørn Eide concerning the draft report

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